

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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THE UNITED STATES OF AMERICA :  
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 Plaintiff :  
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 v. : 3:19-mj-01698-SCC-1  
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 :  
 BRYAN GILBERT DIAZ DE JESUS :  
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 :  
 Defendant :  
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DETENTION HEARING

Was held Before HONORABLE US MAGISTRATE JUDGE SILVIA CARRENO  
COLL, sitting in San Juan, Puerto Rico, on September 5, 2019  
at 2:34 p.m.

1 APPEARANCES:

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3 FOR THE GOVERNMENT:

4 MARIA MONTANEZ, AUSA

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6 FOR DEFENDANT:

7 VICTOR MIRANDA, AFPD

8 WILFREDO DIAZ NARVAEZ ESQ.

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1                   THE CLERK: Magistrate Case 19-1698, USA versus  
2   Bryan Gilbert Diaz De Jesus for Detention Hearing. On  
3   behalf of the Government, AUSA Maria Montanez. On behalf of  
4   the Defendant, Attorney Wilfredo Diaz Narvaez and also  
5   present AFPD Victor Miranda.

6                   MS. MONTANEZ: Good afternoon, Your Honor. The  
7   United States is ready to proceed.

8                   THE MAGISTRATE: Good afternoon. Mr. Diaz, you  
9   have filed a Notice of Appearance, is that correct?

10                  MR. DIAZ: That's correct, Your Honor. Mr.  
11   Miranda?

12                  THE MAGISTRATE: Mr. Miranda.

13                  MR. MIRANDA: Your Honor, in view of the Notice of  
14   Appearance by Mr. Diaz Narvaez, I request that you authorize  
15   me to retire.

16                  THE MAGISTRATE: Granted. Thank you, Mr. Miranda.

17                  MR. MIRANDA: Thank you.

18                  THE MAGISTRATE: All right. Mr. Diaz, are you  
19   going to move the Court for bail?

20                  MR. DIAZ: Yes, Your Honor. We agree with the  
21   recommendation of the Pre-Trial Service office. We shall  
22   proffer information that defendant, Bryan Diaz is neither a  
23   danger of flight or a danger to the community. He's a hard  
24   working man. Even if it doesn't appear in the information,  
25   the Pre-Trial Service, he's working as a domicile barber

1     since the year 2012. He's been working since the age of 16.  
2     He's labored in the local -- was laboring in a local  
3     supermarket to fast food chains. Has strong ties to --

4             THE MAGISTRATE: Okay, why does the report state at  
5     page one that he's unemployed?

6             MR. DIAZ: Well, I really don't know, Your Honor,  
7     but the information that I can submit the proffer to the  
8     Court is that he was working as a barber, domicile barber,  
9     and this was -- I corroborate the information with the  
10    family.

11            THE MAGISTRATE: So he was working on his own.

12            MR. DIAZ: Yes, Your Honor.

13            THE MAGISTRATE: He would conduct home visits for  
14    purposes of providing his service as a barber.

15            MR. DIAZ: Yes, Your Honor, that's correct.

16            THE MAGISTRATE: Okay.

17            MR. DIAZ: His sister resides in Manuel A. Perez.  
18    Also his family also -- he has another additional family who  
19    resides in other places and was working as a domicile  
20    barber.

21            THE MAGISTRATE: Let me hear Ms. Montanez.

22            MR. DIAZ: Well, I want to -- about that point.

23            THE MAGISTRATE: Let me hear Ms. Montanez. Maybe  
24    she's in agreement with bail.

25            MS. MONTANEZ: No, no, Your Honor, we are not.

1 THE MAGISTRATE: No, you're not. Okay. All right.

2 MR. DIAZ: Your Honor, he's a dedicated and a  
3 loving son to his two sons, Gilbert and Jayden. He has a  
4 stable relationship for nine years with Raiza Moreno.  
5 Moreover, he has built an unshakeable bond with his two  
6 sons. Even so, he has been dedicating, he has been devoted  
7 to in the afternoons to be a volunteer coaching to his  
8 baseball team.

9 Mr. Diaz obtained his high school diploma with a rapid  
10 pace in Escuela para Adultos in Rio Piedras and immediately  
11 went to complete an Associate degree in hair stylist from  
12 Instituto de Banca y Comercio. His interest in being  
13 released on bail today is to spend as much time possible  
14 with his family as a parent as well as a husband.

15 We think that the reasons why a danger to the community  
16 are significantly mitigated and outweighed by Mr. Diaz'  
17 personal circumstances and his strong ties.

18 At this point it should be noted, Your Honor, that  
19 there's no -- I don't see an arrest that came from Florida  
20 in his information. He was arrested for possession of two  
21 Percocets and marijuana. That case was dismissed. Maybe  
22 that's the reason it was not mentioned but that's the  
23 information that we have with the interview of our client  
24 and we should submit that information to the Court.

25 THE MAGISTRATE: All right.

1           MR. DIAZ: It should be emphasized that his  
2 passport is expired; that he, his last visit outside the  
3 jurisdiction was on March to visit his mother in Orlando.  
4 If Ms. Moreno Gonzalez requests a witness to serve as a  
5 third party custodian. His residence is located in  
6 Urbanizacion Santiago Iglesias, Rivera Gautier Street 14303  
7 in San Juan.

8           THE MAGISTRATE: You don't have to state the full  
9 address on the record.

10           MR. DIAZ: No, no. I just -- and she's an  
11 excellent -- I just want to mention that she's an excellent  
12 resource. She has been an Admissions officer for the  
13 University at Carolina campus for the last ten years. We  
14 have in addition -- we have another third party custodian,  
15 his mother. We would like to acknowledge her presence in  
16 court in open court and he has also another additional third  
17 party custodian.

18           So, based on the information that has been proffered,  
19 we strongly believe that a combination of supervision, of  
20 the most strictest condition, a third party custodian, home  
21 incarceration, electronic monitoring and complying with any  
22 other conditions that Your Honor deems reasonable, will  
23 sufficiently mitigate any risk of flight and provide the  
24 assurance to the Court that Bryan will appear into any  
25 hearing of the Court.

1 THE MAGISTRATE: Ms. Montanez.

2 MS. MONTANEZ: Your Honor, we respectfully disagree  
3 with the recommendation of the Pre-Trial Services Report.  
4 Beginning with the fact that defense counsel stated that he  
5 doesn't know why the Florida convictions are not in the PSR,  
6 well, as per the information we have, the defendant was  
7 arrested in Orlando in 2016 and at that time he did not  
8 provide his complete full name.

9 He provided his second last name as his first last name  
10 and that is why in the NCI system, the defendant appears as  
11 Bryan Gilbert De Jesus instead of Bryan Gilbert Diaz De  
12 Jesus, which is his correct full name and at that point in  
13 2016 he was arrested.

14 We don't know the exact quantity because the charges  
15 were later abandoned as per the NCIC but at that time and as  
16 per the NCIC report, he was charged with being in possession  
17 of controlled substances; that being marijuana, cocaine,  
18 synthetic marijuana and some kind of prescription drug  
19 without a prescription.

20 We don't know the quantity and as the defendant, it is  
21 our position that he did not inform Probation Officers that  
22 he had a juvenile adjudication. He did not inform Probation  
23 Officers of that prior arrest.

24 We understand that the defendant is a danger to the  
25 community, Your Honor. This defendant has been identified

1 of being part of a drug trafficking organization that is  
2 engaged unfortunately in the smuggling of drugs including  
3 fentanyl. Only on one day this defendant was captured by  
4 video cameras and surveillance delivering twenty seven  
5 parcels to different postal offices. Some of those parcels  
6 were containing heroin, some were containing cocaine and  
7 some were containing fentanyl.

8 At this time we are in possession of eighteen  
9 additional parcels that were not part of the affidavit the  
10 defendant is charged with but are pending to be evaluated  
11 for those new eighteen parcels we have already obtained  
12 secured as required and this happened after the complaint  
13 was authorized but before the defendant was arrested.

14 He was seen or captured delivering eighteen of his own  
15 parcels and we recuperated those. Unfortunately this  
16 defendant is part of a big organization that is involved in  
17 the deadliest drug crisis that is facing the United States  
18 at this point, which is the Opioid crisis.

19 By participating in this chain, he's putting in danger  
20 not only the persons that are actually buying these  
21 controlled substances, some of which are going to the United  
22 States but others are going as far as Australia.

23 These sales are being done through the dark web, so  
24 it's very difficult to identify exactly for those who are  
25 buying, the real identity of the persons who are doing the



1 sale.

2 Notwithstanding that fact, the investigation has  
3 revealed that the system this organization is using to  
4 charge or receive the money or currency in exchange for  
5 those sales is related to this defendant, Bryan Gilbert Diaz  
6 De Jesus, and a bank account in Banco Popular. That is part  
7 of the investigation at this point.

8 The defendant has been or the packages the defendant  
9 had been mailing are going to the United States to different  
10 states, including New York, Oregon, Kansas, Los Angeles,  
11 Seattle and one, at least one is going or was going to  
12 Australia because we were able to locate that package.

13 On May 23, 2019, undercover agents in another  
14 jurisdiction conducted a drug buy of 32 grams of cocaine and  
15 in the package of that -- in the sticker of the envelope, in  
16 that package, the defendant's fingerprints are identified.  
17 Three latent prints of this defendant were identified. That  
18 is how this investigation basically started with this  
19 particular individual.

20 So, we do have evidence that he has been involved since  
21 at least May of this year in the shipping of different  
22 postal envelopes that contained heroin, cocaine and fentanyl  
23 and through this process, he's endangering those who buy,  
24 the agents that are involved in locating these envelopes,  
25 the mail carriers are completely unknown to the substances

1 they are carrying inside and even the K-9s are involved in  
2 the detection of these narcotics.

3 At this time and as per the affidavit, we have more  
4 than 40 grams of fentanyl located in only some of the  
5 parcels that have seized. We're still waiting for the final  
6 lab reports of those substances but if it's true that this  
7 defendant has been engaged in the handling or possession of  
8 more than 40 grams of fentanyl, he will be charged with a  
9 minimum mandatory of five years.

10 That is still pending the lab report and at this time  
11 he was in the complaint charged with a detectable amounts of  
12 heroin, cocaine, fentanyl and the misguiding by not labeling  
13 appropriately what substance is contained in the packages.

14 For that reason, Your Honor, we believe he is a danger  
15 to the community and he should remain detained. I will also  
16 want to add that there are discrepancies in the information  
17 the defendant provided versus the information his mother  
18 provided and that is why we have discrepancies in the fact  
19 he didn't report any criminal history but now we know as per  
20 his mother that he has a juvenile adjudication record and  
21 that he had this criminal arrest record in Florida.

22 He did not report any history of substance abuse  
23 treatment but his mother did report that he had served one  
24 year in a diversionary program. He also owes more than one  
25 thousand dollars, if I'm not mistaken, in traffic fines and

1 the fact that this crime has been conducted in a manner that  
2 involves the defendant at a house because these transactions  
3 are being done over the internet, tend to indicate that  
4 none, neither the mother nor the third party custodian  
5 suggested by defense counsel will be able to control the  
6 defendant or that the defendant may be able to abide by any  
7 conditions this Court might impose and that is why we're  
8 requesting the detention.

9 THE MAGISTRATE: Thank you. Well, let me ask you  
10 something. You state that all these transactions occurred  
11 on line by way of the internet or emails, however, the  
12 defendant you stated was identified as delivering packages  
13 to the post office. Okay, so I'm taking this one step  
14 further. Your argument is relating to the charged conduct.

15 MS. MONTANEZ: Yes.

16 THE MAGISTRATE: That is dangerous in nature  
17 involving fentanyl and putting in harms way those that  
18 handled these packages.

19 MS. MONTANEZ: Correct.

20 THE MAGISTRATE: The weight of the evidence. So,  
21 on the nature of the offense and the weight of the evidence  
22 and the fact that many of these transactions were on line,  
23 the defendant would have to go to the post office to either  
24 receive or deliver the package. So, don't you think that  
25 there are conditions that can be imposed that appease those

1 concerns?

2 MS. MONTANEZ: No, Your Honor, because it could be  
3 the defendant or it could be somebody else. We have  
4 information that tend to indicate that other persons might  
5 also be involved in the delivering of packages to the postal  
6 offices and that is part of the organization the defendant  
7 is involved.

8 THE MAGISTRATE: So, what you're saying is that  
9 there is a larger scheme and that even if you set the  
10 strictest of the conditions, home incarcerated, he would be  
11 able to continue doing this.

12 MS. MONTANEZ: Yes, Your Honor.

13 THE MAGISTRATE: What's your answer to that?

14 MR. DIAZ: Regarding, well first point, regarding  
15 the criminal history category, the licensed driver was --

16 THE MAGISTRATE: The criminal history category.

17 MR. DIAZ: Yeah, regarding -- I'm sorry, regarding  
18 the criminal history, I mean the arrest in Florida.

19 THE MAGISTRATE: The criminal record.

20 MR. DIAZ: Yes, the criminal record. The licensed  
21 driver was seized in Orlando during the intervention. So,  
22 so the last entry appeared in the record. The second was as  
23 well as the adjudication, Your Honor, it was diversion. So,  
24 maybe that's the reason it doesn't -- it does not appear in  
25 the record. Regarding the -- we can have the protective

1 order regarding the discovery and with all the conditions --

2 THE MAGISTRATE: I don't understand your argument.

3 MR. DIAZ: Well, that he -- we can have like a  
4 provision to discuss any matter regarding the case to  
5 another third person.

6 THE MAGISTRATE: But that's not the prosecutor's  
7 argument. What she's saying is that because this is part of  
8 a larger scheme, even if I impose strict conditions, he  
9 would be able to continue conducting these transactions.  
10 That's her argument.

11 MR. DIAZ: Well, we are not in agreement with that.

12 THE MAGISTRATE: Of course you're not. That's why  
13 we have this exchange.

14 MR DIAZ: It's a profile of a mule. This is not --  
15 even in the sworn statement, Your Honor, it doesn't picture,  
16 depicts any other role.

17 THE MAGISTRATE: Well, this is the thing. Pre-  
18 Trial Services is recommending release because he has a  
19 possible third party custodian. He has a suitable  
20 residence. He does not have a criminal record except for  
21 the juvenile adjudication and we learned today about an  
22 additional arrest.

23 So, those factors would favor release. However, Pre-  
24 Trial Services does not take into account the nature of the  
25 offense or the weight of the evidence. That's for the Court

1 to do and in that sense, the prosecutor makes an excellent  
2 argument regarding dangerousness because this particular  
3 substance, fentanyl is deadly in nature and if this has been  
4 sent in packages in the mail, in theory, every mail person  
5 that handles this package is at risk and anyone that  
6 receives the package because there's absolutely no control  
7 of who receives the package and who opens the package and  
8 how this is handled.

9 So, in that sense, it's pretty problematic. In  
10 addition, your client has a substance abuse problem that you  
11 have not addressed, page 4 of the report.

12 MR. DIAZ: Yes. He has a substance abuse history  
13 that could be addressed with treatment and (no recording)

14 THE MAGISTRATE: As detailed in the Pre-Trial  
15 Services Report and as I said before, I ascertained that  
16 regarding community ties, a suitable third party custodian,  
17 a suitable place to reside, the fact that he's not a risk of  
18 flight because he has an expired passport, there's no ties  
19 to foreign countries and that sort of thing, that would tilt  
20 the balance in favor of release.

21 However, I have serious concerns regarding the nature  
22 of the offense, the weight of the evidence and I would like  
23 the prosecutor, Ms. Montanez, to argue, to proffer why even  
24 if I impose the strictest condition, which is home  
25 incarceration with an electronic monitoring device, you feel

1     that that's not enough and that still the citizens, the  
2     community would still be in danger because of the larger  
3     scheme that you have described, why those measures are not  
4     enough?

5                 MS. MONTANEZ: Your Honor, in this particular case,  
6     for example, before you can authorize or after the complaint  
7     was starting or authorized, at that point it was the  
8     defendant who was traveling with the eighteen new packages  
9     but after his arrest, the account in the way that it's being  
10    monitored, has been -- it's still conducting transactions  
11    and at this point we understand and the defendant is aware  
12    and is not available to do that because he has been  
13    incarcerated but there have been some other transactions  
14    that have been conducted and we understand that is taking  
15    place by other members of the organization.

16                Nevertheless, that account is the account related to  
17    defendant's bank account in Banco Popular, Bryan Gilbert  
18    Diaz De Jesus.

19                THE MAGISTRATE: So, even while he's incarcerated  
20    the scheme continues functioning.

21                MS. MONTANEZ: Yes, unfortunately. A few days ago  
22    a thousand dollars buy of illegal narcotics through this  
23    dark web was conducted and this was after the defendant's  
24    arrest, after the defendant's arrest and at this time that  
25    account is connected to the defendant. That is our concern

1 and I proffered this to defense counsel before the hearing.

2 We are not sure who exactly is dealing with these  
3 packages but at least there's one death that occurred in  
4 Seattle of a person that received a package from Puerto Rico  
5 from the addresses -- the packages this defendant had  
6 transported had. The same address because the addresses of  
7 the user are not the real addresses of the person who should  
8 be -- the package should be returned to but they are  
9 consistent in the type of addresses that they're using.  
10 They have like three or five different addresses that they  
11 use constantly.

12 THE MAGISTRATE: So the investigation is still  
13 ongoing.

14 MS. MONTANEZ: The investigation is still ongoing  
15 and at least one person that's in the house in Seattle,  
16 brought contamination with fentanyl and other drugs and the  
17 box that was found open in that house is a box that  
18 contained the address this defendant and the organization  
19 has been using to --

20 THE MAGISTRATE: To mail the packages.

21 MS. MONTANEZ: To mail the packages through the  
22 dark web.

23 THE MAGISTRATE: All right. Yes, Mr. Diaz.

24 MR. DIAZ: Your Honor, we don't have enough  
25 evidence in terms of the ongoing investigation of our



1 client. We saw a sworn statement and we saw the sworn  
2 statement and it doesn't mention any overt act regarding  
3 that kind of damage. We see and we reaffirm our position  
4 that it seems like we have a mule and we can't even infer if  
5 he has or not has prior knowledge of what was in the mail  
6 box but --

7 THE MAGISTRATE: Well, his bank account is still  
8 receiving proceeds from this activity even while he's in  
9 jail.

10 MR. DIAZ: Well, that's weird because he doesn't  
11 have that information and he's not in control of the bank  
12 account.

13 THE MAGISTRATE: Which raises many issues and I'm  
14 really concerned with the proffer made by the prosecutor.  
15 So, I'm going to order him detained based on the nature of  
16 the offense and the weight of the evidence. If after you  
17 receive discovery, the government cannot prove the proffered  
18 information today, you may move to re-open but I'm really  
19 concerned.

20 I mean this is a deadly narcotic and being shipped in  
21 packages that many people may be exposed to is quite a  
22 concern and it seems to me from the proffer made by the  
23 prosecutor that this is much larger than your client but  
24 he's part of it. So I'm ordering him detained. Thank you.

25 MS. MONTANEZ: Your Honor, if I may, regarding this

1 same case, we would like to request if the affidavit can be  
2 made to the parties for the use of defense counsel and all  
3 members of the defense team and the United States but so  
4 that it not be tendered to other persons not involved in the  
5 case because of some of the information it contains.

6 THE MAGISTRATE: Very well.

7 MR. DIAZ: I don't have any objection.

8 MS. MONTANEZ: Thank you.

9 THE MAGISTRATE: Thank you.

10 (The hearing adjourned at 3:00 p.m.)

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1 U.S. DISTRICT COURT )

2 DISTRICT OF PUERTO RICO)

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4 I certify that this transcript consisting of 19 pages  
5 is a true and accurate transcription to the best of my  
6 ability of the proceedings in this case before the Honorable  
7 U.S. Magistrate Judge, Silvia Carreno Coll, on September 5,  
8 2019.

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11 S/Boabdil Vazquetelles

12 Court Reporter

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